

Applicants : Tania C. Sorrell  
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### **Remarks**

Reconsideration and allowance of the present application in view of the amendments above and comments which follow are respectfully requested.

In the Office Action dated July 6, 2005, the Examiner stated that claims 1-9, 15-27, 33-45, and 51-54 were elected and that a complete reply must include cancellation of non-elected claims 10-14, 28-32, and 46-50. These latter non-elected claims have been cancelled.

The Examiner rejected Claims 1-9, 15-27, 33-45, and 51-54 as being allegedly obvious over Somorjai et al. (Magnetic Resonance in Medicine (1995) Vol. 33, pages 257-263; PTO Form 1449 Reference 21), in view of Delpassand et al. (Journal of Clinical Microbiology (1995) May, page 1258-1262; PTO Form 1449 Reference 5) for the reasons set forth in the previous Office Action.

The Examiner stated that applicants argument distinguishing Delpassand in the previous amendment that "Delpassand does not disclose the ability to identify different species of microorganisms within a genus" was not supported by the claim language. Without agreeing with the Examiner's position, but solely to advance prosecution, applicant has further amended claims 1, 19 and 37 to more clearly recite that the method enables classifying microorganisms of unknown species within the same genus into known species within the same genus. The presently claimed invention enables one to discriminate between closely related species, i.e., species within the same genus.

Applicants respectfully traverse the rejection made on obviousness grounds based on the Delpassand et al and Somorjai references.

The Delpassand reference discusses obtaining MR spectra from only a few widely different genera of bacteria and identified the different genera by only visual inspection. Delpassand does not disclose the ability to identify different species of microorganisms within the same

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genus. The presently claimed invention of claims 1, 19 and 37 provides for identifying the species of the microorganism within a genus as being different from other species within the same genus.


Applicant urges that it would not have been obvious to combine Delpassand's approach with the SCS method of Somorjai because the successful introduction of SCS to the identification of bacteria requires the accumulation of a large data set of closely and distantly related organisms, and such methodology would not have occurred to one of ordinary skill in the art. The Delpassand reference used only statistically non-significant number of strains, used only visual inspection, and did not disclose a way to identify species from other species within the same genus. Further the SCS method of Somorjai did not disclose the concept of discriminating closely and distantly related species within the same genus.

No fee is believed to be due in connection with this Amendment. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account Number 03-3125.

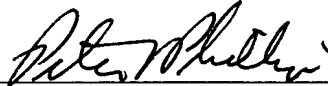
Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

  
Peter J. Phillips  
Reg. No. 29,691

Date

  
Peter J. Phillips  
Registration No. 29,691  
Attorney for Applicant  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, New York 10036  
(212) 278-0400

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Amendments to the Drawings

No amendments are proposed to the drawings.